THE HONOURABLE SRI JUSTICE V.ESWARAIAH

WRIT PETITION No :24651 of 2005

DATED:23-02-2007

BETWEEN:

M/s Gowthami Gas Agency,
Indane Gas Distributors,
Rep., by its Proprietor,
K.Arunkumar,
Jayakrishnapuram,
Rajahmundry,
East Godavari District.

.....
PETITIONER

AND

Indian Oil Corporation Limited,
Rep., by its Senior Area Manager,
Indane Area Office,
Jeevitha Bhima Marg,
Visakhapatnam & another.

.....RESPONDENTS

ORDER:

Heard the learned counsel for the petitioner as well as the learned counsel for the 1st respondent, and the learned Government Pleader for Civil Supplies appearing for the 2nd respondent.

2. Petitioner seeks a writ of mandamus declaring the action of the respondents in not permitting the petitioner to carry on its business viz., distribution of LPG refills to its consumers, as illegal, arbitrary, and consequently direct the 1st respondent to restore supply of LPG refills to the petitioner to carry on its business forthwith.

3. It is the case of the petitioner that it is the distributor of LPG cylinders of Indane Gas belonging to the 1st respondent from 1984 onwards and whileso, the Assistant Grain Purchasing Officer along with staff inspected the business premises of the petitioner on 02-11-2005 and on physical verification alleged that there is a variation of stock based on which, a case was registered under Section 6-A of the Essential Commodities Act (for brevity, 'the Act') and notice under Section 6-B of the Act was subsequently issued, and proceedings under Section 6-A were pending. It is stated that merely because the proceedings under Section 6-A of

the Act are pending the respondents cannot stop the supply of gas as admittedly the petitioner's B-form licence to supply the gas cylinders was neither suspended nor cancelled by the competitive authority. Based on the message with regard to the initiation of proceedings under Section 6-A of the Act the respondents have stopped the supply of gas and therefore, the petitioner is constrained to file the present Writ Petition.

4. This Court, while issuing notice before admission on 18-11-2005, granted interim direction directing the 1st respondent to restore the supply of LPG gas refills to the petitioner to enable it to carry on its business. It is stated that pursuant to the said order the respondents are supplying the gas refills. The statement that the dealership licence has not been suspended or cancelled has not been disputed.

5. Having regard to the facts and circumstances of the case, the Writ Petition is disposed of directing the 2nd respondent to complete the proceedings under Section 6-A in accordance with law. No order as costs.

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V.ESWARAIAH,J

23rd February, 2007.
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